

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)
)
Amendment of the Commission's Rules)
To Permit Flexible Service Offerings)
in the Commercial Mobile Radio Services)

WT Docket No. 96-6

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COMMENTS OF MOTOROLA, INC.

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I. INTRODUCTION AND SUMMARY

In the Notice of Proposed Rule Making initiating this proceeding,¹ the Commission proposed that broadband commercial mobile radio service ("CMRS") providers be authorized to offer fixed wireless local loop service, and solicited comment on whether other CMRS providers also should be permitted to offer wireless local loop and whether other fixed services should be included in the grant of increased service flexibility.² In addition, the Commission solicited comment on how its service rules should be modified to reflect the changes proposed in the *Notice*.³ Finally, the

¹ FCC 96-17 (Jan. 25, 1996) ("*Notice*"). Pursuant to *Order*, DA 96-225, 61 Fed. Reg. 7455 (Feb. 28, 1996), the comment date in this proceeding was extended to March 4, 1996.

² *Notice*, ¶¶ 1, 14, 16, 22.

³ *Id.*, ¶¶ 15, 17.

Commission proposed amending the Table of Frequency Allocations to allow both fixed and mobile use of certain CMRS frequencies.⁴

Motorola generally supports the Commission's proposal to allow broadband CMRS providers to offer fixed wireless services when the services are compatible and/or complementary. The opportunity to offer compatible and/or complementary fixed wireless services should be provided to *all* broadband CMRS licensees on a non-discriminatory basis, consistent with federal regulatory parity policies. Motorola notes further that, before any additional spectrum allocations are undertaken for CMRS mobile and fixed wireless services, the Commission should first ensure sufficient spectrum be made available for non-commercial mobile radio uses, including those of the public safety community. Finally, in order to accomplish the goals of this proceeding, the Commission's Table of Frequency Allocations must be further modified to reflect both fixed and mobile use of cellular spectrum.

II. MOTOROLA SUPPORTS ADOPTION OF THE COMMISSION'S PROPOSAL TO PERMIT ALL BROADBAND CMRS LICENSEES TO PROVIDE COMPATIBLE FIXED SERVICES, INCLUDING WIRELESS LOCAL LOOP SERVICE

In the *Notice*, the Commission proposed to amend its existing broadband CMRS rules to permit broadband personal communications services ("PCS"), cellular, and

⁴ *Id.*, ¶ 26.

specialized mobile radio ("SMR") providers to offer fixed wireless local loop⁵ and other fixed services along with already permitted mobile services.⁶ Assuming that any rules concerning the provision of fixed wireless services are applied in an even-handed fashion to all CMRS licensees, and only compatible and/or complementary uses are permitted, Motorola views this proposal as pro-competitive, pro-consumer, and de-regulatory.

Preliminarily, Motorola believes that flexible service offerings expand licensee options and consumer choices if the services are compatible and/or complementary. On the other hand, routinely allowing completely disparate services with few or no "rules of the road" could fracture the market, raise the cost of equipment, delay or stifle research and development investment, and increase the potential for interference among licensees. Therefore, the Commission must be sure to limit the permitted service offerings for each broadband service to compatible uses.

However, assuming that the uses are compatible, expanding the scope of permissible CMRS offerings to include fixed wireless services will have a number of salutary effects, one of which is increased competition among wireless licensees. Increased competition in the wireless marketplace will lead to a greater variety of service offerings at lower prices, an outcome that is plainly in the public interest. In

⁵ The Commission's definition of "wireless local loop" should be modified to specify that it is a fixed, non-mobile service.

⁶ Notice, ¶¶ 13, 17.

addition, wireless local loop service will "foster competitive local exchange service"⁷ by explicitly permitting wireless entities to provide alternative local exchange services. This increased inter-technology competition likewise will benefit telecommunications consumers.

Further, adoption of the Commission's proposals concerning broadband CMRS fixed services will permit such licensees to offer integrated packages of mobile and fixed services, providing successive degrees of mobility as required by particular customers. As the Commission notes, carriers can add value to their service offerings by being able to offer a "menu" of services, including wireless local loop service either bundled with, or separate from, other mobile service offerings.⁸ This flexibility will allow CMRS operators to respond to marketplace forces and to tailor service arrangements to specific user needs.

In addition, authority to provide wireless local loop service may enable some broadband CMRS operators -- particularly those with large geographic service areas and a limited number of population centers -- more effectively to meet build out requirements and provide telecommunications service to the public. Specifically, the ability of carriers to provide fixed as well as mobile service may induce rural area build out at an earlier date than otherwise would be the case. Conversely, consumers

⁷ *Id.*, ¶ 9.

⁸ *Id.*, ¶ 20.

may find fixed wireless services, offered alone or with mobile service, to be an economic alternative to installation of landline facilities.

Finally, the Commission's proposal is de-regulatory in that it allows wireless providers to offer new services immediately without the delays inherent in FCC rulemaking or waiver proceedings.⁹ This reduced regulatory burden allows wireless carriers to adapt quickly to technological innovation and changing consumer demands, thereby providing the public with what they want when they want it.¹⁰

Consistent with an effort to minimize regulatory interference with the CMRS marketplace, Motorola urges the Commission that whatever technology is deployed in support of wireless local loop or other fixed services be consistent with existing open industry standards that are spectrally efficient. Equipment based on open standards will benefit carriers and consumers by ensuring multiple vendor participation and thus lowering equipment costs. By relying upon existing air interface and interconnection standards, the FCC would avoid any additional burdens.¹¹ Adoption of Motorola's policy recommendation supports a competitive marketplace as well as customer choice.

⁹ See *id.*, ¶ 9. Motorola endorses the Commission's proposal to "treat fixed wireless local loop services as an integral part of the CMRS services offered by a CMRS provider, so long as the carrier otherwise offers interconnected, for-profit mobile services to the public on licensed CMRS spectrum" Notice, ¶ 20.

¹⁰ See *id.*, ¶ 24.

¹¹ Relying upon industry developed standards allows all technologies to compete on a level playing field. Once the market coalesces around a specific approach or set of approaches, the Commission should serve as an international ambassador for expanding that choice to regional and global markets.

III. ALL CMRS LICENSEES MUST BE TREATED EQUITABLY WITH RESPECT TO PERMISSIBLE FIXED USES

The Commission also sought comment on which fixed services non-PCS, broadband CMRS carriers should be permitted to offer,¹² and how these services should be regulated.¹³ In order to allow for fair competition, cellular and SMR providers should be permitted to offer the same fixed services and be subject to the same regulatory constraints as PCS licensees providing fixed services. As the Commission points out, this conclusion follows from the facts that: (1) the principle of regulatory parity demands that, if PCS carriers are permitted to provide wireless local loop or other fixed services, then so too should other carriers offering "substantially similar" services; and (2) the Commission has previously determined that all CMRS is "substantially similar" because of the presence of existing inter-service competition or the potential for future competition among PCS, cellular, and SMR.¹⁴ Thus, by applying similar regulatory constraints to all broadband CMRS licenses, the Commission will fulfill its statutory mandate to rely on economic forces rather than disparate regulatory treatment to shape the CMRS marketplace.¹⁵

¹² Notice, ¶ 22.

¹³ *Id.*, ¶ 17.

¹⁴ *Id.*, ¶ 16.

¹⁵ See *id.*, ¶ 19. While the legal principle of regulatory parity and the existence of mature, competitive wireless markets dictate that all broadband CMRS providers should be permitted to offer the same services in the United States, such is not necessarily the
(continued...)

For example, PCS licensees have clearly been authorized to provide wireless PBX service.¹⁶ Cellular carriers likewise are providing wireless PBX service. Clearly, SMR licensees should explicitly be permitted to offer wireless PBX service in order to compete on an equal basis in the marketplace. This example demonstrates the importance of non-discriminatory application of the fixed service rules to all CMRS licensees.

Finally, because broadcasting is inconsistent with the definition of CMRS, and is a separate category in the ITU, it should be clear that broadcasting cannot be included as a permissible fixed use of CMRS spectrum. In the *CMRS Second Report and Order*,¹⁷ commercial mobile radio service is defined as "radio communication service carried on between mobile stations or receivers, and land stations, and by mobile stations communicating among themselves,"¹⁸ "provided for profit,"¹⁹

¹⁵(...continued)
case in other countries. In countries where wireless markets are still nascent, it may be appropriate to take a different approach, to ensure that initial build out activities are designed in full accordance with the primary frequency use plan.

¹⁶ *Id.*, ¶ 11. See also *Amendment of the Commission's Rules To Establish New Personal Communications Services*, 8 FCC Rcd 7700, 7712 (1993) (Second Report and Order).

¹⁷ *Implementation of Sections 3(n) and 332 of the Communications Act -- Regulatory Treatment of Mobile Services*, 9 FCC Rcd 1411 (1994) (Second Report and Order).

¹⁸ *Id.* at 1423 n.38.

¹⁹ *Id.* at 1425.

interconnected to the "public switched network,"²⁰ and "made available to the public."²¹ Broadcasting is neither a communication service within the meaning of this definition, nor is it interconnected to the public switched network. Therefore, the Commission should clarify that it does not intend to allow broadcasting service to be provided over CMRS spectrum.

IV. ANY FUTURE REALLOCATION OF SPECTRUM FOR WIRELESS USES MUST PROVIDE FOR THE NEEDS OF THE PUBLIC SAFETY COMMUNITY AND NON-CMRS ELIGIBLES

In the *Notice*, the Commission sought comment on whether there is currently sufficient broadband CMRS spectrum for wireless local loop and mobile service use, and if not, whether the marketplace should determine how the spectrum is to be used.²² Initially, Motorola believes that licensee decisions about the deployment of fixed or mobile services should be market regulated. If a particular licensee concludes that providing wireless local loop services rather than mobile services best responds to the market and best furthers the licensee's interests, then the licensee should be entitled to make that decision.

Moreover, Motorola believes that the Commission has correctly recognized that fixed use of CMRS frequencies may lead to the demand for additional spectrum to be

²⁰ *Id.* at 1434.

²¹ *Id.* at 1437.

²² *Notice*, ¶¶ 14, 17.

reallocated to CMRS. When, in the future, the Commission addresses this issue, the agency must, consistent with its statutory obligations, also consider the spectrum needs of non-CMRS communication systems users. Before considering any additional allocations of spectrum for either mobile *or* fixed CMRS, the Commission should first ensure that it provides for the critical spectrum needs of the non-CMRS communications sector, including public safety users.²³

V. ACCOMMODATION OF FIXED SERVICE REQUIRES CHANGES TO THE TABLE OF FREQUENCY ALLOCATIONS

The Commission proposed revisions to the Table of Frequency Allocations to reflect the proposals contained in the text of the *Notice*.²⁴ Motorola requests that the Commission's proposed changes be modified in order to make the Table of Allocations consistent with the Commission's proposal to allow cellular providers to offer both fixed and mobile services. Specifically, the spectrum allocated for cellular use (*i.e.*, 824-849 and 869-894 MHz) reflects only a "LAND MOBILE" allocation. The allocation column also should include a "FIXED" notation in order to reflect the proposals contained in the *Notice*.

²³ In addition, Motorola points out that, at present, the Public Safety Wireless Advisory Committee ("PSWAC") is drafting a report on public safety spectrum needs, a subset of non-CMRS. Because of its substantial impact on any future spectrum allocations, the Commission should study the PSWAC recommendations prior to allocating any additional spectrum for commercial mobile uses.

²⁴ *Id.*, ¶ 26.

VI. CONCLUSION

Motorola generally supports the Commission's proposal to allow the use of existing CMRS spectrum for both fixed and mobile services. In implementing its proposal, however, the Commission should be sure to grant all broadband CMRS providers the same opportunities to offer fixed services, subject to the same regulatory treatment. Further, any actions by the Commission to allocate additional spectrum should reflect a balance in its policies between CMRS and non-CMRS spectrum requirements. Finally, the Commission should modify its Table of Allocations to make it consistent with the goals of this proceeding.

Respectfully submitted,

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